

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Lifeline and Link Up Reform and Modernization |) | WC Docket No. 11-42 |
| |) | |
| Federal-State Joint Board on Universal Service |) | CC Docket No. 96-45 |
| |) | |
| Lifeline and Link Up |) | WC Docket No. 03-109 |

REPLY COMMENTS OF MEDIA ACTION GRASSROOTS NETWORK

Media Access Project, on behalf of Access Humboldt, Center for Media Justice, Chicago Media Action, Deep Dish TV, Global Action Project, Institute for Local Self Reliance, Instituto de Educacion Popular del Sur de California (IDEPSCA), La Plaza de Encuentro, Line Break Media, Main Street Project, Media Alliance, Media Justice League, Media Mobilizing Project, Minnesota Center for Neighborhood Organizing, NYC Grassroots Media Coalition, Open Access Connections, OtraTech, People’s Production House, Progressive Technology Project, Quote...Unquote, Reclaim the Media, Reel Grrls, Southwest Workers Union, and the United Workers (collectively, “MAG-Net” or the “MAG-Net Commenters”), submits this reply to initial comments addressing topics raised in certain portions of the Commission’s *Notice of Proposed Rulemaking* (“*NPRM*”) in the above-captioned dockets.¹ As the *NPRM* indicates, reply comments pertaining only to *NPRM* subsections on “immediate reforms to eliminate waste,

¹ See Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link Up, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, *Notice of Proposed Rulemaking*, 26 FCC Rcd 2770 (2011) (“*NPRM*”).

fraud, and abuse,” the one-per-residence rule, and other certification, verification, and database proposals, are due on the date on this submission.

INTRODUCTION AND SUMMARY

MAG-Net Commenters have asserted throughout the course of these proceedings that the Commission should reform Lifeline and Link Up, or design any successor to these Universal Service Fund (“USF”) Low-Income programs, in a manner that actually will improve communications technology adoption support programs and help the intended beneficiaries thereof. MAG-Net welcomes the input of consumer protection agencies, public interest groups, and those service providers submitting thoughtful comments in these dockets. The Commission must focus on compliance with its statutory mandate to ensure the universal availability of advanced communications and information services “at just, reasonable, and affordable rates” to “[c]onsumers in all regions of the Nation, including low-income consumers.”²

MAG-Net submits these reply comments to provide the Commission once more with the perspective of individuals and communities that utilize Lifeline and Link Up to meet essential communications needs. MAG-Net’s community-based member organizations work on a local and regional basis with demographic groups typically unserved or underserved by providers of the affordable communications services that Section 254 of the Act describes.³ These least served populations include communities of color, low-income communities in diverse urban and rural areas alike, immigrant populations, tribal communities, homeless individuals, and members of other historically and presently disadvantaged groups. All members of these groups have a fundamental need for and right to the level of communications services described in the Act.

² 47 U.S.C. § 254(b)(1), (3).

³ See, e.g., Comments of Media Action Grassroots Network, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 5-6 (filed April 21, 2011) (“MAG-Net Initial Comments”).

Moreover, access to these services will benefit society as a whole by allowing members of such communities to improve their economic, educational, and civic engagement opportunities.

In this brief reply, MAG-Net calls to the Commission's attention initial comments addressing some of the problems with the *NPRM*'s proposed "waste, fraud, and abuse" curbs, the one-per-residence rule, and other eligibility and verification proposals. Implementing some such proposals as outlined in the *NPRM* would diminish or eliminate – rather than improve or expand – benefits to intended recipients of Low-Income support. MAG-Net Commenters respectfully submit that the Commission should reject proposed "reforms" that would prevent or deter qualified recipients of adoption support from applying for and receiving benefits.

I. Reforms Intended to Curb Waste, Fraud, and Abuse in the Low-Income Program Must Not Drive Down Already Insufficient Participation Rates, Nor Deprive Recipients of Benefits by Imposing Undue Burdens on Eligible Individuals.

As indicated in their initial comments, MAG-Net Commenters understand the need for program efficacy and accountability, and therefore support reforms that will maximize the usefulness of the Low-Income program for intended recipients by eliminating unnecessary overhead, inefficient expenditures, or actual waste.⁴ Nevertheless, the *NPRM*'s over-emphasis on potential waste, fraud, and abuse misses the point of the reforms these mechanisms need most: expanded and modernized eligibility and implementation guidelines reflective of modern communications needs and current economic realities.

The MAG-Net Commenters contend that the true failing of Lifeline and Link Up to this point has been under-utilization of these programs by eligible individuals, not waste, fraud, or abuse. Statistics cited in the *NPRM* indicate 2009 enrollment by "8.6 million eligible households . . . nationwide, which represented [only] 33 percent of the 25.7 million low-income households

⁴ See *id.* at 11-13.

at the time.”⁵ Other commenters in these dockets took note of the same disturbingly low participation rates for the Low-Income program. For example, Cricket cited the same statistic to demonstrate that “low-income programs currently reach only a fraction of eligible households that could benefit from these programs,” illustrating the unfortunate fact that “voice and broadband adoption rates for low-income consumers already are far behind those for more affluent populations, as well as the national average.”⁶ MAG-Net Commenters therefore concur entirely with Cricket’s assertions that the “Low-Income programs admittedly reach *too few* consumers in need,” and that “program enrollment, and support levels, should be considerably *higher* to meet the universal service objectives established in Section 254.”⁷ As the Minority Media and Telecommunications Council noted, this 33 percent national enrollment rate shows “extremely low levels of participation,” asserting correctly that “[t]he Commission’s first priority should be to ensure that [members of] low income communities” get connected, particularly from the least served communities of color with the lowest adoption rates.⁸

⁵ *NPRM* ¶ 25. MAG-Net Commenters thus suggested that the *NPRM*’s concession that growth in the fund is “not necessarily indicative of waste, fraud, and abuse,” *Id.* ¶ 144, does not acknowledge the historic and continuing under-utilization of the Low-Income program. *See* Comments of TracFone Wireless, Inc., WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 11 (filed April 21, 2011) (“TracFone Comments”) (“[M]ost of the growth of the low-income programs in general and Lifeline in particular is not the result of duplicate enrollment or enrollment by persons not qualified for Lifeline support. Rather, that growth is the result of increased numbers of qualified households actually enrolling in Lifeline.”).

⁶ Comments of Leap Wireless International, Inc. and Cricket Communications, Inc., WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 14 (filed April 21, 2011) (“Cricket Comments”) (emphases in original); *see also* Comments of Advocates for Basic Legal Equality *et al.*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 10-11 & n.18 (filed April 21, 2011) (“Consumer Groups Comments”) (noting that enrollment rates remain low even during these “dire economic times for struggling low-income families who need affordable phone service”).

⁷ Cricket Comments at 14.

⁸ Comments of the Minority Media and Telecommunications Council, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 3-4 (filed April 21, 2011).

Combating actual waste, fraud, or abuse in the administration of the Low-Income program could produce benefits for qualified recipients. Yet, MAG-Net agrees with the baseline position articulated by General Communication, Inc. (“GCI”), which stated articulately that “[t]he Commission should tailor its proposed waste, fraud, and abuse reforms to avoid undermining the purpose of the programs and harming the population it was designed to serve.”⁹

II. Measures to Prevent Duplicative Claims Should be Viewed as from the Proposed “One-Per-Residence” Rule, Which Should Be Rejected Due to Eligible Individuals’ Increased Need for Mobile Connectivity.

As MAG-Net’s initial comments in this proceeding noted, the *NPRM* observes that “telephone use has changed” since first implementation of the universal service statutes enacted in 1996, noting that “[f]ifteen years ago, wireless service was not a mainstream consumer offering; today, 93 percent of the general population has wireless service.”¹⁰ The MAG-Net Commenters interpreted such figures to mean that Lifeline and Link Up should no longer be confined to a single landline per household, because of the increasingly essential nature of adequate mobile connectivity, and also because of problems with over-inclusive definitions for “households” or “residences.”¹¹

MAG-Net’s initial comments suggested that the Commission should recognize the fundamental change in the nature of communications needs in today’s society and marketplace. They advocated against codification of any one-per-residence rule and suggested that the

⁹ Comments of General Communication, Inc., WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 22 (filed April 21, 2011) (“GCI Comments”); *see also* Comments of Amvensys Telecom Holdings, LLC, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 2, 4 (filed April 21, 2011) (“The proper and efficient use of the Fund’s resources is vital to ensuring the continued support of services to needy communities and individuals,” yet “[m]any of the FCC’s proposed reforms to reduce waste, fraud and abuse will negatively impact consumers who are least able to afford these services.”).

¹⁰ *NPRM* ¶ 110 & n.185.

¹¹ *See* MAG-Net Initial Comments at 16-17.

Commission instead consider limiting assistance to one supported service per eligible adult.¹² MAG-Net Commenters also asserted that, rather than limiting entire households to only one supported wireline *or* one supported wireless service, the Commission should reconsider and revise its one-per-household standard. Such revisions would allow all qualified individuals – either in a single residence or in a group housing situation – to receive appropriate benefits in order to obtain adequate and affordable communications services.

GCI agreed that the growing use of and need for mobile wireless connectivity demands a change to the one-per-household principle, not its enshrinement in a harmful new “one-per-residence” rule. For instance, GCI noted that any “one-per-residential-address limitation would ignore the wireless transformation that has swept across the industry”¹³ – a transformation that the *NPRM* seems to recognize. For this reason, GCI advocated for the same one-per-qualifying-adult proposal supported by MAG-Net’s initial comments.¹⁴ GCI rightly criticized the one-per-residence proposal as “deeply counterproductive public policy . . . in the wireless era” that “would, by design, eliminate Lifeline support for many if not most individuals in a household” after the first applicant at an address obtained subsidized service.¹⁵

¹² See MAG-Net Initial Comments at 17 (affirming suggestions in paragraph 110 of the *NPRM* that a “different approach,” allowing each adult to demonstrate eligibility and qualify for one supported service, might “better serve the needs of low-income consumers in light of [] statutory obligations, as well as the changing communications marketplace”).

¹³ GCI Comments at 35; *see also id.* at 2 (asserting that “the telecommunications landscape has been transformed in recent years by wireless technologies,” so that “the proposed one-per-residential-address limitation harkens back to a bygone era when a telephone was a fixed appliance and everyone in a residence knew where to find it”). GCI noted that “the wireline ‘home’ phone is fast going the way of the carrier pigeon, replaced by a fully mobile handset that serves as an increasingly flexible personal communications device.” *Id.*

¹⁴ See *id.* at 35.

¹⁵ See *id.* at 38.

Furthermore, GCI noted that a one-per-residence requirement effectively would “deprive many qualifying consumers of service in direct contravention of the statute,”¹⁶ observing that Section 254(b)(3) directs the Commission to base USF policies on the principle that *all* low-income consumers should have access to affordable services. There is no limitation in the statute restricting support to only one such individual consumer living at any household or address.¹⁷ The goal of eliminating duplicate claims should be to eliminate waste in the Low-Income program, with measures properly directed at situations in which a single individual may inadvertently or fraudulently receive support for the same service from more than one provider – *e.g.*, supported wireless service from two different wireless carriers.¹⁸ The one-per-residence rule proposed in the *NPRM* would prevent not just duplicative support thus defined, but would deny support unjustifiably to anyone beyond the first qualified individual at a single address.

The National Telecommunications Cooperative Association (“NTCA”) argued in its comments that the Low-Income program “was designed to offer a critical line of communications for low income customers – and not to enable every individual in a household to have multiple lines of communications.”¹⁹ MAG-Net Commenters suggested to the contrary in their initial comments that low-income individuals should not be required to choose between having a wireline or a wireless connection.²⁰ Yet, even if the Low-Income program cannot support *multiple* connections per qualifying adult, the logical conclusion of NTCA’s argument should be a one-per-qualifying adult rule – not a one-per-residence rule of the sort proposed in

¹⁶ See *id.* at 35.

¹⁷ See *id.* at 37-38.

¹⁸ See, *e.g.*, Cricket Comments at 7-10; Consumer Groups Comments at 16.

¹⁹ Comments of the National Telecommunications Cooperative Association, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 3 (filed April 21, 2011).

²⁰ See MAG-Net Initial Comments at 18.

the *NPRM*, which would restrict choice and availability for the single service that each individual should have, and would prevent fully qualified consumers from obtaining Low-Income support.

Finally, even if the Commission does not adopt the one-per-qualifying-adult proposal that MAG-Net believes to be the minimum standard for satisfying statutory principles, and for granting individuals in need the flexibility to at least obtain adequate broadband *or* mobile connectivity services, the Commission must make exceptions to the one-per-household rule for the type of group housing situations described in the MAG-Net Initial Comments. Thus, although Cricket’s general support for a one-to-a-household approach is unfortunate, the MAG-Net Commenters commend that carrier for understanding that “bright-line rules that are overly simplistic could result in the inadvertent exclusion of low-income consumers that should be eligible for support.”²¹

Cricket concurred implicitly with the MAG-Net Commenters documentation of the fact that more and more low-income consumers tend to choose mobile services, citing “fundamental shifts in telecommunications markets, including a general migration of low-income customers from wireline to wireless services.”²² Cricket also noted that a single postal address may be assigned to apartment buildings or a group residences such as shelters, hospitals, treatment centers, and nursing homes – locations in which low-income residents “often are unable to live on their own, and typically are even more vulnerable than the average low-income consumer.”²³ Similarly, Sprint explained that the proposed one-per-residence rule should at least be “refined to

²¹ Cricket Comments at 8.

²² *Id.*

²³ *Id.* at 9.

address group housing arrangements,” and included in that category not only shelter settings but also “multi-generational families living at the same address.”²⁴

As MAG-Net’s initial comments suggested, whatever the decision on the proposed one-per-residence rule, the Commission must at minimum prevent any application of such a rule that denies support to qualified individuals living in commercially zoned buildings, tribal areas, or group living quarters such as senior assisted living centers or domestic violence shelters.²⁵

III. Overly Burdensome Certification and Verification Requirement Will Decrease Participation in the Low-Income Program.

The *NPRM* proposes “to eliminate the option of self-certifying eligibility and to require all consumers in all states to present documentation of program eligibility when enrolling” for Lifeline and Link Up.²⁶ While MAG-Net supports efforts to improve efficiency of the Low-Income program, requiring documentation beyond what individuals already provide to qualify for other assistance programs could diminish the effectiveness of Lifeline and Link Up. The joint Consumer Groups Comments made clear those organizations’ strong opposition to outright elimination of self-certification procedures because such a step would “reduce the usefulness of existing on-line applications for Lifeline service.”²⁷ As GCI explained, outright elimination of all self-certification options would “harm the population that Lifeline is designed to serve.”²⁸

²⁴ Comments of Sprint Nextel Corporation, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, at 3 (filed April 21, 2011).

²⁵ See MAG-Net Initial Comments at 19.

²⁶ *NPRM* ¶ 150.

²⁷ Consumer Groups Comments at 21.

²⁸ GCI Comments at 48; see also TracFone Comments at 27 (“Requiring documentation of program-based eligibility would do little . . . to curtail waste, fraud and abuse [but] would significantly complicate the enrollment process for many qualified low-income consumers and would lead to an inevitable reduction in Lifeline participation levels even below the current 33 percent.”).

CONCLUSION

MAG-Net Commenters respectfully submit that the Commission should not adopt any “waste, fraud, and abuse” reforms, or new eligibility and certification requirements, that actually would deter or diminish receipt of support by qualified individuals – including harmful, imprecise, and unjustified “one-per-residence” rules.

Respectfully Submitted,

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